

§ 1423.8

and CCC determines there is no liability under the storage agreement;

(c) An irrevocable letter of credit meeting CCC requirements that is effective for at least 1 year and cannot be canceled without 120 days notice to CCC. The issuing bank must be a commercial bank insured by the Federal Deposit Insurance Corporation or a financial institution subject to the Farm Credit Act, or

(d) Other alternative instruments and forms of financial assurance as the Deputy Administrator determines appropriate to secure the warehouse operator's compliance with this section.

§ 1423.8 Approval or rejection.

(a) CCC will notify warehouse operators approved under this part in writing. Such approval does not relieve the warehouse operator of any obligation under any agreement to CCC or any other agency of the United States, and does not obligate CCC to use the warehouse.

(b) CCC will notify the warehouse operator of rejection under this part in writing. The notification will state the cause(s) for rejection. CCC will reconsider a warehouse for approval when the warehouse operator establishes that the reasons for rejection have been remedied or requests reconsideration of the action and presents to the Director, KCCO, in writing, information in support of such request. The warehouse operator may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing by submitting a request with the Deputy Administrator. Appeals shall be as prescribed in part 780 of this title.

[71 FR 35773, June 22, 2006, as amended at 71 FR 42017, July 25, 2006]

§ 1423.9 Examination of warehouses.

Before approval, and while a storage agreement is in effect, a warehouse must be examined by a person designated by CCC periodically to determine compliance with this part. CCC or any other agency of USDA shall, at any time, have the right to inspect the warehouse storage facilities and any applicable records. Inspection or examination by CCC does not absolve the warehouse operator of any failure to

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comply with this part that CCC does not discover. Failure to allow access to facilities as required under this paragraph will result in rejection or revocation of approval.

§ 1423.10 Exceptions for United States Warehouse Act licensed warehouses.

The financial requirements, net worth alternatives and examination provisions of this part do not apply if the warehouse operator is licensed under the U.S. Warehouse Act (USWA) for such commodities, but an examination under this part will be made of such a warehouse whenever CCC determines such action is necessary to protect its interests.

§ 1423.11 Delivery and shipping standards for cotton warehouses.

(a) Unless prevented from doing so by severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, acts of civil or military authority, non-availability of transportation facilities or any cause beyond the control of the warehouse operator that renders performance impossible, the warehouse operator will:

(1) Deliver stored cotton without unnecessary delay.

(2) Be considered to have delivered cotton without unnecessary delay if, for the week in question, the warehouse operator has made available for shipment at least 4.5 percent of their applicable storage capacity in effect during the relevant week of shipment.

(b) The warehouse operator shall provide a written report to CCC on a weekly basis. The reporting week shall be the seven day period starting at midnight following the close of business on each Saturday and ending at midnight after close of business of the following Saturday. Before close of business of the first business day of the following week, the warehouse operator will provide following information to CCC:

(1) Bales made available for shipment (BMAS) during such week. BMAS is defined as any cotton bales that:

(i) Have been delivered, or are scheduled and ready for delivery during such week; and